## REMARKS

This Application has been carefully reviewed in light of the Office Action mailed May 20, 2010. At the time of the Office Action, Claims 29-58 were pending in this Application. Claims 29-58 were rejected. Claims 29-31, 34, 46-50, and 55-58 have been amended. Claims 1-28 were previously cancelled without prejudice or disclaimer. Applicants respectfully request reconsideration and favorable action in this case.

## Rejections under 35 U.S.C. § 112

Claims 29-31, 34, 46-50, and 56-58 were rejected by the Examiner under 35 U.S.C. §112, second paragraph, as being indefinite and failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants amend Claims 29-31, 34, 46-50, and 55-58 to overcome these rejections and respectfully request full allowance of Claims 29-31, 34, 46-50, and 55-58 as amended.

## Rejections under 35 U.S.C. §103

Claims 29-31, 34-41, 45, and 56-58 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0154300 filed by Miraj Mostafa ("*Mostafa*") in view of U.S. Patent Application No. 2002/0132608 filed by Masahito Shinohara ("*Shinohara*").

Claims 32 and 33 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Mostafa* and *Shinohara* as applied above claim, in view of U.S. Patent No. 5,953,506 issued to Devenddra Kalra et al. ("*Kalra*").

Claims 43 and 43 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Mostafa* and *Shinohara* as applied above claim, in view of U.S. Patent Application Publication No. 2002/0165024 filed by Teemu Puskala ("*Puskala*").

Claims 44 and 46-55 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Mostafa* and *Shinohara* as applied above claim, in view of U.S. Patent Application Publication No. 2003/0096598 filed by Ralf Prenzel et al. ("*Prenzel*").

Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a prima facie case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Even if each limitation is disclosed in a combination of references, however, a claim composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. *KSR Int'l. Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). Rather, the Examiner must identify an apparent reason to combine the known elements in the fashion claimed. *Id.* "Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *Id.*, citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Finally, the reason must be free of the distortion caused by hindsight bias and may not rely on ex post reasoning. *KSR*, 127 S.Ct. at 1742. In addition, evidence that such a combination was uniquely challenging or difficult tends to show that a claim was not obvious. *Leapfrog Enterprises, Inc. v. Fisher-Price, Inc. and Mattel, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007), citing *KSR*, 127 S.Ct. at 1741.

The Examiner stated that *Mostafa* discloses all the elements of independent claim 29 except creating a plurality of variants of the one or more useful data objects in the switching component as a function of or more parameters. Applicant respectfully disagrees.

The last limitation in claim 29:

> "*transmitting a delivery request message to the first telecommunication device informing the first telecommunication device of the availability of the plurality of variants of the one or more user data objects that have been created by the switching component before transmitting the transmission message to the first telecommunication device*"

is clearly tied into the above cited limitation because according to claim 29 the delivery request message needs to inform the first telecommunication device that a plurality of variants of the one or more user data objects are available. *Mostafa* neither discloses nor

suggests this limitation. In fact, *Mostafa* teaches to use a very specific message that informs the receiver only about the fact that a MMS message has been received. Even though, a multimedia message comprises multiple data objects (See, *Mostafa*, paragraph [0002]) the system of *Mostafa* only informs the user that a MMS message has been received and is waiting for retrieval. (See, *Mostafa*, paragraph [0022]) Thus, *Mostafa* does not even teach to notify a telecommunication device about the content of the multimedia message.

Most importantly, *Shinohara* does not disclose the missing limitation identified by the Examiner. To this end, it is to be noted that even though *Shinohara* teaches to modify the data format of a multimedia message as argued by the Examiner, this function is clearly not equivalent to "*creating a plurality of variants of the one or more user data objects in the switching component*" as claimed. Modifying does not mean to create multiple objects let alone offering them to telecommunication participants. Modifying means to alter an object from one format to another format. This step makes perfect sense in *Shinohara* because *Shinohara* teaches to maintain a database that includes information about the capabilities of each telecommunication device that is supposed to receive a specific multimedia message. (See, *Shinohara*, paragraph [0057]). The system according to *Shinohara* then checks the ability of all participating telecommunication devices and basically determines a common denominator. (See, *Shinohara*, paragraph [0064]). Then, if necessary the system modifies the multimedia message to a format that can be retrieved by all participants. (*Id.*) *Shinohara* therefore neither teaches nor suggests to create multiple variants of a user object let alone informing a recipient of the availability of multiple variants of such a user object.

Independent claims 56-58 include at least similar limitations as independent claim 29. Thus, the same reasoning applies as the rejections regarding these claims are based on the same arguments. Applicants respectfully submit that the dependent Claims are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §103(a), if necessary, and do not concede that the Examiner's proposed combinations are proper.
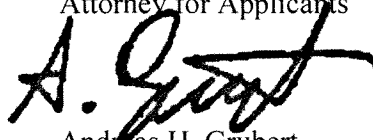
## CONCLUSION

Applicants have made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

Applicants believe there are no fees due at this time. However, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-4871 of King & Spalding L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512-457-2025.

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Date: August 20, 2010

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